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Attorney for Plaintiff
GLEN R. HAGEN

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GLEN R. HAGEN, Plaintiff, v. NCR CORPORATION, Defendant.	Case No.: 07 CV 2205 DMS (CAB) **AFFIDAVIT OF THOMAS R. GILL, ESQ., IN SUPPORT OF MOTION FOR APPOINTMENT OF GUARDIAN AD LITEM FOR PROSECUTION OF ACTION PURSUANT TO FRCP 17(c)** Date: May 9, 2008 Time: 10:00 a.m. Judge: Hon. Cathy Ann Bencivengo

I, THOMAS R. GILL, ESQ., have personal knowledge of the following facts, and if called upon could competently testify to the following:

BACKGROUND

1. I was retained by Plaintiff on July 31, 2006. Upon retention I was informed Plaintiff was undergoing medical evaluations specific to short-term memory loss. I did not notice the same personally. Therefore, my only knowledge was what I was told.

2. I was asked to represent Plaintiff both insofar as his applications for disability and with regard to his termination. After investigation, and after many communications with corporate

counsel, Timothy R. Butler, Esq., it was determined that Plaintiff would institute suit against Defendant predicated upon California's Fair Employment and Housing Act, specifically disability discrimination.

FOLLOW-UP

3. Throughout the next year, that is, through the end of July 2007, almost imperceptibly, I noticed Plaintiff was forgetting some things we had earlier discussed. It was minimal, but noticeable. Over time, the memory loss became more evident.

4. Today, I have found that Plaintiff's short-term memory loss is significant. At this point I am rarely certain that Plaintiff will recall what I've explained. I "test" his memory by asking him to forward information to his wife, Carmen. Subsequently I ask Carmen if Plaintiff has related to her what I've asked him to repeat. Most often Carmen indicates to the contrary.

RECOMMENDATION

5. I am concerned Plaintiff doesn't recall everything that occurs in the present. To me this is a problem because I rely upon my client's knowledge of events transpired to build on that knowledge into the future. I do not think Plaintiff is recalling all the information I need him to remember in order to work with me to the extent necessary for the best interests of his case. I recommend a guardian *ad litem* be appointed, and I certainly recommend it be his wife, Carmen, who is exceptionally competent in every respect.

I declare under penalty of perjury under the laws of the United States the foregoing is true and correct and that this affidavit was executed on this 7th day of April, 2008, at San Diego, California.

s/ Thomas R. Gill, Esq.
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